

FIRST CLASS COUNTY RECREATION AUTHORITY LAW

40:37B-1. Short title

This act shall be known and may be cited as the "First Class County Recreation Authority Law."

P.L. 1967, c. 136, § 1, eff. June 28, 1967.

40:37B-2. Definitions

The following terms whenever used or referred to in this act shall have the following respective meanings unless a different meaning clearly appears from the context.

- (a) "Authority" shall mean a public body created pursuant to this act.
- (b) "Bond resolution" shall have the meaning ascribed thereto in section 15 of this act.
- (c) "Bonds" shall mean any bonds, notes, interim certificates, debentures or other obligations issued by an authority or any other political subdivision of the State.
- (d) "Clerk" shall mean the clerk of a municipality or the clerk of the board of chosen freeholders as the case may be or the officer charged with the duties customarily imposed on such clerk.
- (e) "Construct" and "construction" shall connote and include, acts of clearance, demolition, planning, designing, construction, development and redevelopment, reconstruction, replacement, enlargement, extension, improvement and betterment.
- (f) "Cost" shall mean, in addition to the usual connotations thereof, the cost of planning, acquisition or construction of all or any part of any public facility or facilities of an authority and of all or any property, rights, easements, privileges, agreements and franchises deemed by the authority to be necessary or useful and convenient therefor or in connection therewith, including interest or discount on bonds, cost of issuance of bonds, architectural, engineering and inspection costs and legal expenses, cost of financial, professional and other estimates and advice, organization, administrative, operating and other expenses of the authority prior to and during such acquisition or construction, and all such other expenses as may be necessary or incident to the financing, acquisition, construction and completion of such public facility or facilities or part thereof and the placing of the same fully in operation or the disposition of the same, and also such provision or reserves for working capital, operating, maintenance or replacement expenses or for payment or security of principal of or interest on bonds during or after such acquisition or construction as the authority may determine, and also reimbursements to the authority or any governmental unit or person of any money theretofore expended for the purposes of the authority.
- (g) "County" shall mean any county of the first class of this State. "The county" shall mean the particular county of the first class for which a particular authority is created.

FIRST CLASS COUNTY RECREATION AUTHORITY LAW

(h) "Facility charges" shall mean tolls, rents, rates, fees or other charges in connection with or for the use of services of the public facility or other property owned or controlled by the authority.

(i) "Facility revenue" shall mean money derived or to be derived from the operation of all or any part of the facilities of the authority including any parts thereof, theretofore constructed or acquired and any parts, extensions, replacements or improvements thereof thereafter constructed or acquired.

(j) "Governing body" shall mean in the case of a municipality the commission, council, board or body by whatever name it may be known having charge of the finances of the municipality and in the case of a county the board of chosen freeholders.

(k) "Municipality" shall mean any city of any class, any town, township, village, borough or any other municipality of this State other than a county or a school district.

(l) "Person" shall mean any person, association, corporation, Nation, State or agency or subdivision thereof other than a county or a municipality of this State or an authority.

(m) "Project" shall have the meaning ascribed to said term in section 15 of this act.

(n) "Public body" shall mean the State or any county, city, town, township, borough, village, school district, authority or any other political subdivision of the State.

(o) "Public facility" shall mean any lands, structures or other properties or facilities, acquired or constructed or to be acquired or constructed by an authority for its purposes and operated or to be operated by the authority or by any governmental unit or person under a lease or other agreement by or with the authority.

(p) "Real property" shall mean lands within or without the State, above or below water, and improvements thereof or thereon or any riparian or other rights or interests therein.

(q) "Resolution" shall mean a written act of the governing body of a county adopted and otherwise approved in the manner or mode of procedure prescribed for resolutions tending to obligate such county pecuniarily.

P.L. 1967, c. 136, § 2, eff. June 28, 1967.

40:37B-3. Creation of authority; membership; filing and publication of resolution

The governing body of a county may by resolution create a public body corporate and politic under and pursuant to this act, under the name and style of "The County Recreation Authority, " with all or any significant part of the name of said county inserted. Said body shall consist of the 5 members thereof, who shall be residents of the county and be appointed by resolution of said governing body as hereinafter provided, and it shall constitute the authority contemplated and provided for in this act and an agency or instrumentality of said county. Copies of said resolution for the creation of the authority, certified by the clerk of said governing body, shall be filed in the office of the

FIRST CLASS COUNTY RECREATION AUTHORITY LAW

Secretary of State and in the office of the Division of Local Government in the Department of the Treasury. A copy of any such certified resolution, duly certified by or on behalf of the Secretary of State, shall be admissible in evidence in any action or proceeding and shall be conclusive evidence of due and proper adoption and filing thereof as aforesaid. After such filing in the office of the Secretary of State, a copy of said resolution shall be published at least once in a newspaper published or circulating in the county, together with a notice stating the fact and date of its adoption and the date of the first publication of such notice. If no action questioning the validity of the creation or establishment of the authority shall be commenced within 45 days after the first publication of such notice, then said authority shall be conclusively deemed to have been validly created and established and authorized to transact business and exercise powers as a public body created pursuant to this act.

P.L. 1967, c. 136, § 3, eff. June 28, 1967.

40:37B-4. Dissolution of authority; grounds; filing of resolution

The governing body of any county which has created an authority pursuant to this act may by resolution dissolve such authority if either (a) such authority has no debts or obligations outstanding or (b) all creditors or other obligees of the authority have consented to said resolution. A copy of said resolution, certified by the clerk of said governing body, shall be filed in the office of the Secretary of State and in the office of the Division of Local Government in the Department of the Treasury. Upon proof of such filing and upon proof either that said authority had no debts or obligations outstanding at the time of the adoption of such resolution or that all creditors or other obligees of the authority have consented to such resolution, the authority shall be conclusively deemed to have been lawfully and properly dissolved. Thereupon, all right, title and interest in and to the property of the authority shall be vested in the county, except that any particular property shall vest in any other governmental unit or person if the terms of any lease or other agreement of the authority with respect thereto shall so provide. A copy of any such certified resolution, duly certified by or on behalf of the Secretary of State, shall be admissible in evidence in any action or proceeding and shall be conclusive evidence of due and proper adoption and filing thereof as aforesaid.

P.L. 1967, c. 136, § 4, eff. June 28, 1967.

40:37B-5. Appointment of members; terms; filling of vacancies

After expiration of the period of 45 days following the first publication as provided in section 3 hereof of a notice regarding creation of an authority, 5 persons shall be appointed as the members of the authority. The members first appointed shall, by the resolution of appointment, be designated to serve for terms respectively expiring on the first days of the first, second, third, fourth and fifth Februarys next ensuing after the date of their appointment. On or after January 1 in each year after such first appointments, one person shall be appointed as a member of the authority for a term commencing on or

FIRST CLASS COUNTY RECREATION AUTHORITY LAW

after February 1 in such year and expiring on February 1 in the fifth year after such year. Each member shall hold office for the term of appointment and until his successor shall have been appointed and qualified. Any vacancy in the membership of the authority during an unexpired term shall be filled by appointment of a person as member for the unexpired term. A copy of any resolution appointing any such members, certified by the clerk of the governing body, may be filed in the office of the Secretary of State. A copy of any such certified resolution, duly certified by or on behalf of the Secretary of State, shall be admissible in evidence in any action or proceeding and shall be conclusive evidence of due and proper adoption and filing thereof as aforesaid and, except in an action or proceeding seeking only exclusion of the appointee from office, shall be conclusive evidence of the due and proper appointment of the members named therein.

P.L. 1967, c. 186, § 5, eff. June 28, 1967.

40:37B-6. Election of chairman and vice-chairman; appointment of other officers, agents and employees

Every authority, upon the first appointment of its members and thereafter on or after February 1 in each year, shall annually elect from among its members a chairman and a vice chairman who shall hold office until February 1 next ensuing and until their respective successors shall have been appointed and qualified. Every authority may also appoint and employ a secretary, a treasurer, such professional and technical advisers and experts, and such other officers, agents and employees as it may require, and it shall determine their qualifications, terms of office, duties and compensation.

P.L. 1967, c. 136, § 6, eff. June 28, 1967.

40:37B-7. Vesting of powers; quorum

The powers of the authority shall be vested in the members thereof in office from time to time and a majority of the entire authorized membership shall constitute a quorum at any meeting thereof. Action may be taken and motions and resolutions adopted by the authority at any meeting of the members thereof by vote of a majority of the members present, unless in any case the bylaws of the authority shall require a larger number.

P.L. 1967, c. 136, § 7, eff. June 28, 1967.

40:37B-8. Compensation and expenses

An authority may reimburse its members for necessary expenses incurred in the discharge of their duties. The resolution for the creation of an authority may provide that the members of the authority may receive compensation for their services within an annual and other limitations to be stated in such resolution, and in that event, each member may receive from the authority such compensation for his services as the authority may

FIRST CLASS COUNTY RECREATION AUTHORITY LAW

determine within the limitations stated in such resolution. The said provisions or limitations stated in any such resolution, may be amended, supplemented, repealed or added by subsequent resolution, but no reduction of any such limitation shall be effective during the remaining term of any member of the authority then in office except upon the written consent of the authority. No member of an authority shall receive any compensation for his services except as provided in this section.

P.L. 1967, c. 136, § 8, eff. June 28, 1967.

40:37B-9. Unlawful interest in contracts

No member, officer or employee of an authority shall have or acquire any interest, direct or indirect, in a public facility of the authority or in any property included or to be included in the holdings of the authority or in any contract or proposed contract for materials or services to be furnished to or used by the authority but neither the holding of any office or employment in the government of any county or municipality nor the owning of any other property within the State shall be deemed a disqualification for membership in or employment by an authority. A member of an authority may be removed by the governing body of the county for incapacity, inefficiency or neglect of duty or misconduct in office or other disqualifying cause and after he shall have been given a copy of the charges against him and, not sooner than 10 days thereafter, been afforded opportunity for a hearing, in person or by counsel, by such governing body with respect to such charges.

P.L. 1967, c. 136, § 9, eff. June 28, 1967.

40:37B-10. Purpose of authority

The purpose of every county recreation authority shall be the improvement, establishment and development of recreational facilities within the county by or through the planning, acquisition, construction, improvement, maintenance or operation of any and all facilities for the recreation and entertainment of the public including but not limited to facilities for sports, exhibitions, games, ice-skating, boating, tennis, golf, a zoo and a nature center.

P.L. 1967, c. 136, § 10, eff. June 28, 1967.

40:37B-11. Creation of other authority for same or similar purposes prohibited

No governing body which may create an authority pursuant to this act for any of the purposes herein before set out shall thereafter create any other authority for the same or similar purpose which will be competitive with the public services to be rendered or furnished by the authority first established.

P.L. 1967, c. 136, § 11, eff. June 28, 1967.

FIRST CLASS COUNTY RECREATION AUTHORITY LAW

40:37B-12. Body politic and corporate; powers and duties

Every authority shall be a public body politic and corporate constituting a political subdivision of the State established as an instrumentality exercising public and essential governmental functions to provide for the public health and welfare and shall have perpetual succession and, for the effectuation of its purposes, shall have the following additional powers:

- (a) To adopt and have a common seal and to alter the same at pleasure;
- (b) To sue and be sued;
- (c) In its own name to acquire, hold, use and dispose of its facility charges and other revenues and other moneys;
- (d) In its own name but for the county to acquire, hold, use and dispose of other personal property for the purpose of the authority;
- (e) In its own name but for the county to acquire by purchase, gift, condemnation or otherwise or lease as lessee real property and easements therein, necessary or useful and convenient for the purposes of the authority whether subject to mortgages, deeds of trust or other liens, or otherwise, and to hold and use the same and to dispose of the property so acquired no longer necessary for the purposes of the authority;
- (f) To grant by franchise, lease or otherwise the use of any project, facilities or property owned or controlled by it to any person for such consideration and for any period or periods of time and upon such other terms and conditions as it may fix and agree upon. Any such grant may be upon condition that the user shall or may construct or provide any building or structures or improvements on such project, facilities or property or portion thereof, all upon such terms and conditions as may be agreed upon;
- (g) To borrow money and issue negotiable bonds or notes or other obligations and provide for and secure the payment of any bonds and the rights of the holders thereof, and to purchase, hold and dispose of any bonds;
- (h) To apply for and accept gifts or grants of real or personal property, money, material, labor or supplies for the purposes of the authority from any governmental unit or person and to make and perform such agreements or contracts as may be necessary or convenient in connection with the procuring, acceptance or disposition of such gifts or grants;
- (i) To enter on any land or premises for the purpose of the authority and to determine the location, type and character of any public facility and all other matters in connection with all or any part of any public facility which it is authorized to own, construct, establish, effectuate or control;
- (j) To make and enforce bylaws or rules and regulations for the management and regulation of its business and affairs and for the use, maintenance and operation of any public facility, and to amend the same;

FIRST CLASS COUNTY RECREATION AUTHORITY LAW

(k) To do and perform any acts and things authorized by this act under, through or by means of its own officers and employees, or by contract;

(l) To acquire, purchase, construct, lease, operate, maintain and undertake any project and to make facility charges for the use thereof;

(m) To invest any funds held in reserve or sinking funds or any funds not required for immediate disbursement, in property or securities in which savings banks may legally invest funds subject to their control; and

(n) To enter into any and all contracts, execute any and all instruments and do and perform any and all acts or things necessary, convenient or desirable for the purposes of the authority or to carry out the powers, duties and functions provided for in this act subject to P.L.1971, c. 198"Local Public Contracts Law" (C. 40A:11-1 et seq.).

P.L. 1967, c. 136, § 12, eff. June 28, 1967. Amended by L.1975, c. 96, § 7, eff. May 16, 1975.

40:37B-13. Facility charges

Every authority is hereby authorized to charge and collect facility charges. Such facility charges may be charged to and collected from any governmental unit or person and such governmental unit or person shall be liable for and shall pay such facility charges to the authority at the time when and place where such charges are due and payable.

P.L. 1967, c. 136, § 13, eff. June 28, 1967.

40:37B-14. Compliance of facility charges with terms of lease or other agreement; adjustment of charges

The facility charges fixed, charged and collected by an authority with respect to any public facility shall comply with the terms of any lease or other agreement of the authority with regard to such public facility, and the facility charges fixed, charged and collected by an authority may be so adjusted that the revenues of the authority will at all times be adequate to pay all expenses of the authority, including the expenses of operation and maintenance of any public facility or other property owned or controlled by the authority, including insurance, improvements, replacements, reconstruction and any other required payments, and to pay the principal of and interest on any bonds, and to maintain such reserves or sinking funds for any of the foregoing purposes as may be required by the terms of any lease or other agreement of the authority or as may be deemed necessary or convenient and desirable by the authority. A copy of a schedule of such facility charges in effect shall be a public record.

P.L. 1967, c. 136, § 14, eff. June 28, 1967.

FIRST CLASS COUNTY RECREATION AUTHORITY LAW

40:37B-15. Issuance of bonds and notes; contents of bond resolution

For the purpose of raising funds to pay the cost of any public facility or facilities or for the purpose of funding or refunding any bonds, an authority shall have power to authorize or provide for the issuance of bonds and in anticipation thereof notes pursuant to this act, by a resolution (in this act sometimes referred to as "bond resolution") which shall:

(a) describe in brief and general terms sufficient for reasonable identification the public facility or facilities or part thereof, (in this act sometimes called "project") to be constructed or acquired, or describe the bonds which are to be funded or refunded (if any);

(b) state the cost or estimated cost of the project (if any); and

(c) provide for the issuance of the bonds in accordance with section 16 of this act.

P.L. 1967, c. 136, § 15, eff. June 28, 1967.

40:37B-16. Purpose of issuance; series bonds; maturity; interest; denominations; execution; redemption; types of bonds

Upon adoption of a bond resolution, an authority shall have power to issue its bonds or notes for the purpose of financing the project or of funding or refunding the bonds described therein. Such bonds or notes shall be authorized by the bond resolution and the bonds may be issued in one or more series and shall bear such date or dates, mature at such time or times not exceeding 40 years from the date thereof, bear interest at a rate or rates within such maximum rate (not exceeding 6% per annum), be in such denomination or denominations, be in such form either coupon or registered, carry such conversion or registration privileges, have such rank or priority, be executed in such manner, be payable from such sources in such medium of payment at such place or places within or without the State, and be subject to such terms of redemption (with or without premium) as the bond resolution may provide. The authority may issue such types of bonds as it may determine, including (without limiting the generality of the foregoing) bonds on which the principal and interest are payable (a) exclusively from the income and revenues of the project financed with the proceeds of such bonds; (b) exclusively from the income and revenues of certain designated projects whether or not they are financed in whole or in part with the proceeds of such bonds; or (c) from its revenues generally. Any such bonds may be additionally secured by a pledge of any grant or contributions from any governmental unit or person or a pledge of any income or revenues of the authority from any source whatsoever.

P.L. 1967, c. 136, § 16, eff. June 28, 1967.

FIRST CLASS COUNTY RECREATION AUTHORITY LAW

0:37B-17. Act as sole authority for issuance of bonds; inapplicability of other laws

This act shall be complete authority for the issuance of bonds by an authority, and the provisions of any other law shall not apply to the issuance of such bonds.

P.L. 1967, c. 136, § 17, eff. June 28, 1967.

40:37B-18. Sale of bonds and notes

Bonds and notes of an authority may be sold, as hereinafter provided, at public or private sale at such price or prices as the authority shall determine; provided, however, that the interest cost to their average maturity of the money received for any group of bonds sold in a single transaction (computed according to standard tables of bond values) shall not exceed 6% per annum. No obligations shall be sold for less than par value and interest accrued to date of delivery.

P.L. 1967, c. 136, § 18, eff. June 28, 1967.

40:37B-19. Bond anticipation notes; sale; report

All bond anticipation notes may be sold at private sale pursuant to resolution of the authority, or by its treasurer expressly designated by resolution to sell such notes. The treasurer making any such sale shall report in writing to the authority at the next meeting thereof as to the principal amount, interest rate, and maturities of the notes sold, the price obtained and the name of the purchaser.

P.L. 1967, c. 136, § 19, eff. June 28, 1967.

40:37B-20. Public sale of bonds upon sealed proposals; exceptions; deposit; confirmation of private sale

All bonds shall be sold at public sale upon sealed proposals, except that bonds may be sold at private sale:

- (a) Without any previous public offering
 - (1) if constituting all or part of an authorized issue of \$20,000.00 or less; or
 - (2) if sold to any board, body, agency, commission, instrumentality, district, authority or political subdivision of any local unit, or of the State, or of the Federal Government; or
- (b) if no legally acceptable bid is received at advertised public offering, such bonds or any of them may be sold within 30 days after the advertised date for public bidding; provided, however, that no bonds shall bear interest at any rate of interest which

FIRST CLASS COUNTY RECREATION AUTHORITY LAW

is higher than the rate or maximum rate specified in the notice of sale, nor contain substantially different provisions from those specified in said notice.

Any purchaser of bonds at private sale, other than a public body, shall deposit a certified or cashier's or treasurer's check drawn upon a bank or trust company in an amount equal to 5% of the amount of bonds purchased and such amount shall be applied as in the case of a deposit made at a public sale.

Any private sale of bonds shall be made or confirmed by resolution of the authority adopted by not less than a $\frac{2}{3}$ vote of the full membership thereof, setting forth the date, maturities, interest rate and price of the bonds and the name of the purchaser.

P.L. 1967, c. 136, § 20, eff. June 28, 1967.

40:37B-21. Notice of public bond sale; contents; publication

A public sale of bonds shall be advertised at least once at least 7 days prior thereto in a newspaper qualified for publication of a bond resolution of the authority and in a publication carrying municipal bond notices and devoted primarily to financial news or the subject of State and municipal bonds and published in the city of New York or in New Jersey.

A notice of public sale of bonds shall set forth:

- (a) the principal amount, date, denomination and maturities of the bonds offered for sale;
- (b) the rate or rates of interest or maximum rate or rates of interest to be borne by the bonds;
- (c) the terms and conditions of such public sale;
- (d) such other provisions as may be determined by the authority.

P.L. 1967, c. 136, § 21, eff. June 28, 1967.

40:37B-22. Terms and conditions of sale

(a) All bidders shall be required to deposit a certified or cashier's or treasurer's check, drawn upon a bank or trust company, equal to not less than 2% of the bonds to secure the authority in part from any loss resulting from the failure of the bidder to comply with the terms of his bid, or as liquidated damages for such failure.

(b) All bids for bonds shall publicly opened and announced at the advertised time and place of sale. Such bids as comply with the terms of the notice of sale shall be

FIRST CLASS COUNTY RECREATION AUTHORITY LAW

considered, and any bid not complying with the terms of such notice may be rejected. All bids received may be rejected.

(c) Bonds of 2 or more issues may be sold on the basis of combined maturities, or the maturities of each issue offered for sale.

(d) Bonds may be offered for sale at a single rate of interest, or bidders may be requested to name a single rate of interest, but no proposal shall be considered which offers to pay less than the principal amount of bonds offered for sale or which names a rate of interest higher than the lowest rate of interest stated in any legally acceptable proposal.

As between proposals naming the same lowest rate of interest, the proposal offering to accept the least amount of bonds shall be accepted, the bonds to be accepted shall be those first maturing, and as between such proposals, the proposal offering to pay the greatest premium shall be accepted. The amount of premium bid for the bonds shall in no event exceed \$1,000.00 for the principal amount of bonds offered for sale. In order to effect the foregoing, a sufficient number of the last maturing bonds shall be of the denomination of \$1,000.00 or less.

(e) Bonds may be offered for sale at different rates of interest for the same issue or different rates of interest for different issues, or parts thereof, or bidders may be requested to name any such rates of interest. No proposal shall be considered which offers to pay an amount less than the principal amount of bonds offered for sale or under which the total loan is made at an interest cost higher than the lowest net interest cost to the authority under any legally acceptable proposal. Such net interest cost shall be computed in each instance by adding to the total principal amount of bonds bid for, the total interest cost to maturity in accordance with such bid and by deduction therefrom of the amount of premium, if any, bid.

(f) The authority may establish additional terms or conditions of sale.

P.L. 1967, c. 136, § 22, eff. June 28, 1967.

40:37B-23. Sale of bonds by treasurer; report

The authority, by resolution, may designate its treasurer to sell and award bonds in accordance with the advertised terms of public sale. The treasurer making any such sale shall report in writing to the authority at the next meeting thereof as to the principal amount, interest rate, and maturities of the bonds sold, the price obtained and the name of the purchaser.

P.L. 1967, c. 136, § 23, eff. June 28, 1967.

FIRST CLASS COUNTY RECREATION AUTHORITY LAW

40:37B-24. Unlawful acts in issuance or sale of obligations

In the issuance or sale of obligations, it shall be unlawful for the authority or any member thereof or any official:

(a) to pay or agree to pay, directly or indirectly, any bonus, commission, fee or other compensation or consideration for the issuance or for the sale of obligations and any amount so paid may be recovered for the authority;

(b) to make any agreement with any purchaser or bidder, or his representative, regarding the deposit or disposition of any moneys received or to be received from such sale and every such agreement shall be void;

(c) to make any agreement pertaining to the sale of obligations which contains provisions as to any other matter, and such sale and any such agreement shall be void;

(d) to make any agreement or "service contract" with respect to publication of notice of sale and printing of bonds or notes, the providing of a legal opinion or for any of such services, whether or not accompanied by an offer to bid for or purchase obligations. Any such agreement or contract shall be void and any amount so paid may be recovered for the authority except, however, agreements made directly with a newspaper, bond printer or an attorney licensed to practice law in the State in which he has his office.

A municipal bond dealer, banker, or financial expert may be engaged or employed as a financial advisor to provide financial services in connection with the sale of obligations, including the preparation of a bidding circular or prospectus, but no such financial advisor shall purchase any such obligations at any public or private sale, but any such purchase shall not affect the validity of the obligations and the authority shall recover any compensation and profit resulting therefrom to such financial advisor.

P.L. 1967, c. 136, § 24, eff. June 28, 1967.

40:37B-25. Failing copy of bond resolution; publication of notice

An authority shall cause a copy of any bond resolution adopted by it to be filed for public inspection in its office and in the office of the clerk of the governing body of the county and may thereupon cause to be published at least once in a newspaper published or circulating in the county a notice stating the fact and date of such adoption and the places where such bond resolution has been so filed for public inspection and also the date of the first publication of such notice and also stating that any action or proceeding of any kind or nature in any court questioning the validity or proper authorization of bonds provided for by the bond resolution, or the validity of any covenants, agreements or contracts provided for by the bond resolution shall be commenced within 20 days after the first publication of such notice. If any such notice shall at any time be published and if no action or proceeding questioning the validity or proper authorization of bonds provided for by the bond resolution referred to in said notice, or the validity of any covenants,

FIRST CLASS COUNTY RECREATION AUTHORITY LAW

agreements or contracts provided for by said bond resolution shall be commenced or instituted within 20 days after the first publication of said notice, then all residents and taxpayers and owners of property in the county and all other persons shall be forever barred and foreclosed from instituting or commencing any action or proceeding in any court, or from pleading any defense to any action or proceeding, questioning the validity or proper authorization of such bonds, or the validity of such covenants, agreements or contracts, and said bonds, covenants, agreements and contracts shall be conclusively deemed to be valid and binding obligations in accordance with their terms and tenor.

P.L. 1967, c. 136, § 25, eff. June 28, 1967.

40:37B-26. Covenants with bondholders

Any bond resolution of an authority providing for or authorizing the issuance of any bonds may contain provisions, and such authority, in order to secure the payment of such bonds and in addition to its other powers, shall have power by provision in such bond resolution to covenant and agree with the several holders of such bonds, as to:

(a) the custody, security, use, expenditure or application of the proceeds of the bonds;

(b) the construction and completion, or replacement, of any public facility or facilities;

(c) the use, regulation, operation, maintenance, insurance or disposition of any public facility or facilities, or restrictions on the exercise of the powers of the authority to dispose, or to limit or regulate the use, of any public facility or facilities;

(d) payment of the principal of or interest on the bonds, or any other obligations, and the sources and methods thereof, the rank or priority of any such bonds or obligations as to any lien or security, or the acceleration of the maturity of any such bonds or obligations;

(e) the use and disposition of any moneys of the authority, including facility revenues;

(f) pledging, setting aside, depositing or trusteeing all or any part of the facility revenues or other moneys of the authority to secure the payment of the principal of or interest on the bonds or any other obligations or the payment of expenses of operation or maintenance of any public facility or facilities, and the powers and duties of any trustee with regard thereto;

(g) the setting aside out of the facility revenues or other moneys of the authority of reserves and sinking funds, and the source, custody, security, regulation, application and disposition thereof;

(h) determination or definition of the facility revenues or of the expenses of operation and maintenance of a public facility or facilities;

FIRST CLASS COUNTY RECREATION AUTHORITY LAW

(i) the rents, rates, fees, or other charges in connection with, or for the use of services of, or otherwise relating to any public facility or facilities, including any parts thereof theretofore constructed or acquired and any parts, extensions, replacements or improvements thereof thereafter constructed or acquired, and the fixing, establishment, collection and enforcement of the same, the amount or amounts of facility revenues to be produced thereby, and the disposition and application of the amounts charged r collected;

(j) the assumption or payment or discharge of any indebtedness, liens or other claims relating to any part of any public facility or facilities or any obligations having or which may have a lien on any part of the facility revenues:

(k) limitations on the issuance of additional bonds or any other obligations or on the incurrence of indebtedness of the authority;

(l) limitations on the powers of the authority to construct, acquire or operate any structures, facilities or properties which may compete or tend to compete with any of its public facilities;

(m) vesting in a trustee or trustees within or without the State such property, rights, powers and duties in trust as the authority may determine which may include any or all of the rights, powers and duties of the trustee appointed by the holders of bonds pursuant to section 27 of this act, and limiting or abrogating the right of such holders to appoint a trustee pursuant to section 27 of this act or limiting the rights, duties and powers of such trustee;

(n) payment of the costs or expenses incident to the enforcement of the bonds or of the provisions of the bond resolution or of any covenant or agreement of the authority with the holders of bonds;

(o) the procedure, if any, by which the terms of any covenant or agreement with, or duty to, the holders of bonds may be amended or abrogated, the amount of bonds the holders of which must consent thereto, and the manner in which such consent may be given or evidenced; or

(p) any other matter or course of conduct which, by recital in the bond resolution, is declared to further secure the payment of the principal of or interest on bonds and to be part of any covenant or agreement with the holders of bonds.

All such provisions of said bond resolution and all such covenants and agreements shall constitute valid and legally binding contracts between the authority and the several holders of the bonds, regardless of the time of issuance of such bonds, and shall be enforceable by any such holder or holders by appropriate action or proceeding in any court of competent jurisdiction, including a proceeding in lieu of prerogative writ.

FIRST CLASS COUNTY RECREATION AUTHORITY LAW

40:37B-27. Default by authority; appointment of trustee; powers and duties

(a) If the bond resolution of an authority authorizing or providing for the issuance of a series of its bonds shall provide in substance that the holders of the bonds of such series shall be entitled to the benefits of this section, then if there shall be a default in the payment of principal of or interest on any bonds of such series after the same shall become due, whether at maturity or upon call for redemption, and such default shall continue for a period of 30 days, or if the authority shall fail or refuse to comply with any of the provisions of this act or shall fail or refuse to carry out and perform the terms of any contract with the holders of any such bonds and such failure or refusal shall continue for a period of 30 days after written notice to the authority of its existence and nature, the holders of 25% in aggregate principal amount of the bonds of such series then outstanding by instrument or instruments filed in the office of the Secretary of State and proved or acknowledged in the same manner as a deed to be recorded, may appoint a trustee to represent the holders of the bonds of such series for the purposes provided in this section.

(b) Such trustee may, and upon written request of the holders of 25% in aggregate principal amount of the bonds of such series then outstanding shall, in his or its own name:

(1) By any action or proceeding, enforce all rights of the holders of such bonds, including the right to require the authority to charge and collect facility charges adequate to carry out any contract as to, or pledge of, facility revenues, and to require the authority to carry out and perform the terms of any contract with the holders of such bonds or its duties under this act;

(2) Bring an action upon all or any part of such bonds or interest coupons or claims appurtenant thereto;

(3) By action, require the authority to account as if it were the trustee of an express trust for the holders of such bonds;

(4) By action, enjoin any acts or things which may be unlawful or in violation of the rights of the holders of such bonds; or

(5) Declare all such bonds due and payable, whether or not in advance of maturity, upon 30 days' prior notice in writing to the authority and, if all defaults shall be made good, then with the consent of the holders of 25% of the principal amount of such bonds then outstanding, annul such declaration and its consequences.

(c) Such trustee shall, in addition to the foregoing, have and possess all of the powers necessary or appropriate for the exercise of the functions specifically set forth herein or incident to the general representation of the holders of bonds of such series in the enforcement and protection of their rights.

(d) In any action or proceeding by such trustee, the fees, counsel fees and expenses of the trustee and of the receiver, if any, appointed pursuant to this act, shall, if allowed by the

FIRST CLASS COUNTY RECREATION AUTHORITY LAW

court, constitute taxable costs and disbursements, and all costs and disbursements, allowed by the court, shall be a first charge upon any facility charges and facility revenues of the authority pledged for the payment or security of bonds of such series.

P.L. 1967, c. 136, § 27, eff. June 28, 1967.

40:37B-28. Appointment of receiver

If the bond resolution of an authority authorizing or providing for the issuance of a series of its bonds shall provide in substance that the holders of the bonds of such series shall be entitled to the benefits of section 27 of this act and shall further provide in substance that any trustee appointed pursuant to said section or having the powers of such a trustee shall have the powers provided by this section, then such trustee, whether or not all of the bonds of such series shall have been declared due and payable, shall be entitled to the appointment of a receiver of the public facility or facilities of the authority, and such receiver may enter upon and take possession of such public facility or facilities and, subject to any pledge or contract with the holders of bonds of the authority, shall take possession of all moneys and other property derived from or applicable to the acquisition, construction, operation, maintenance or reconstruction of such public facility or facilities and proceed with such acquisition, construction, operation, maintenance or reconstruction which the authority is under any obligation to do, and operate, maintain and reconstruct such public facility or facilities and fix, charge, collect, enforce and receive the facility charges and all facility revenues thereafter arising subject to any pledge thereof or contract with the holders of bonds relating thereto and perform the public duties and carry out the contracts and obligations of the authority in the same manner as the authority itself might do and under the direction of the court.

P.L. 1967, c. 136, § 28, eff. June 28, 1967.

40:37B-29. Negotiability of bonds or other obligations

Any provision of law to the contrary notwithstanding any bond or other obligation issued pursuant to this act shall be fully negotiable within the meaning and for all purposes of the law merchant and laws applicable to negotiable instruments, and each holder or owner of such a bond or obligation, or of any coupon appurtenant thereto, by accepting such bond or coupon shall be conclusively deemed to have agreed that such bond, obligation or coupon is and shall be fully negotiable within the meaning and for all purposes of said law merchant and laws applicable to negotiable instruments.

P.L. 1967, c. 136, § 29, eff. June 28, 1967.

FIRST CLASS COUNTY RECREATION AUTHORITY LAW

40:37B-30. Liability on bonds

Neither the members of the authority nor any person executing bonds issued pursuant to this act shall be liable personally on the bonds by reason of the issuance thereof. Bonds or other obligations issued pursuant to this act shall not be in any way a debt or liability of the State or of any subdivision thereof, and shall not create or constitute any indebtedness, liability or obligation of the State or of any such subdivision. Nothing in this act contained shall be construed to authorize any authority to incur any indebtedness on behalf of or in any way to obligate the State or any subdivision thereof.

P.L. 1967, c. 136, § 30, eff. June 28, 1967.

40:37B-31. Acquisition of property; eminent domain

Every authority is hereby empowered, in its own name but for the county to acquire by purchase, gift, grant or devise and to take for public use real property, within or without the county or any interest therein which may be deemed by the authority necessary for its purposes. Such authority is hereby empowered to acquire and take such real property by condemnation in the manner provided by chapter 1 of Title 20, Eminent Domain, of the Revised Statutes (R.S. 20:1-1 et seq.) and, to that end may invoke and exercise in the manner or mode prescribed in said chapter, either in its own name or in the name of the county, all the powers of such county to acquire or take property for public use; property already devoted to a public use may be acquired in like manner; provided, however, that no action for condemnation shall be brought against a public body or any corporation itself possessing the power of eminent domain without its consent; and provided, further, that notwithstanding the foregoing or any other provision of this act, the governing body of the county may provide in the resolution creating the authority that the authority shall not take by condemnation any real property except upon consent thereto by such governing body given by resolution duly adopted.

P.L. 1967, c. 136, § 31, eff. June 28, 1967.

40:37B-32. Additional powers

In addition to the other powers conferred upon it by this act or by any other law and not in limitation thereof, every authority, in connection with construction or operation of any public facility, shall have power to make reasonable regulations for the installation, construction, maintenance, repair, renewal, relocation and removal of tracks, pipes, mains, conduits, cables, wires, towers, poles or any other equipment and appliances (in this section called "works") of any public utility as defined in section 48:2-13 of the Revised Statutes, in, on, along, over or under any real property, including public lands or waters. Whenever in connection with construction or operation of any public facility, any authority shall determine that it is necessary that any such works, which now are or hereafter may be located in, on, along, over or under any such real property, should be

FIRST CLASS COUNTY RECREATION AUTHORITY LAW

relocated in such real property or should be removed therefrom, the public utility owning or operating such works shall relocate or remove the same in accordance with the order of the authority; provided, however, that the cost and expenses of such relocation or removal, including the cost of installing such works in a new location or new locations, and the cost of any lands or any rights or interest in lands or any other rights acquired to accomplish such relocation or removal, less the cost of any lands or any rights, or interests in lands or any other rights of the public utility paid to the public utility in connection with the relocation or removal of such works, shall be paid by the authority and may be included in the cost of such public facility. In case of any such relocation or removal of works as aforesaid, the public utility owning or operating the same, its successors or assigns, may maintain and operate such works, with the necessary appurtenances, in the new location or new locations for as long a period, and upon the same terms and conditions, as it had the right to maintain and operate such works in their former location.

P.L. 1967, c. 136, § 32, eff. June 28, 1967.

40:37B-33. Aid and co-operation of counties or municipalities; powers

For the purpose of aiding an authority and co-operating in the planning, undertaking, acquisition, construction or operation of any public facility, the county or any municipality in the county may (a) acquire real property in its name for such public facility or for the widening of existing roads, streets, parkways, avenues or highways or for new roads, streets, parkways, avenues or highways to any such public facility, or partly for such purposes and partly for other county or municipal purposes, by purchase or condemnation in the manner provided by law for the acquisition of real property by such county or municipality, (b) furnish, dedicate, close, vacate, pave, install, grade, regrade, plan or replan parks, streets, roads, roadways, alleys, sidewalks or other places which it is otherwise empowered to undertake, and (c) do any and all things necessary or convenient to aid and co-operate in the planning, undertaking, construction or operation of any such public facility, and cause services to be furnished to the authority of any character which such county or municipality is otherwise empowered to furnish, and to incur the entire expense thereof.

P.L. 1967, c. 136, § 33, eff. June 28, 1967.

40:37B-34. Sale, lease, loan, grant or conveyance of, or permit to use, real or personal property of county or municipality

Any county by resolution of its governing body, municipality by ordinance of its governing body, governmental unit or person is hereby empowered, without any referendum or public or competitive bidding, to sell, lease, lend, grant or convey to an authority, or to permit an authority to use, maintain or operate as part of any public facility, any real or personal property which may be necessary or useful and convenient for the purposes of the authority and accepted by the authority. Any such sale, lease,

FIRST CLASS COUNTY RECREATION AUTHORITY LAW

loan, grant, conveyance or permit may be made or given with or without consideration and for a specified or an unlimited period of time and under any agreement and on any terms and conditions which may be approved by such county, municipality, governmental unit or person and which may be agreed to by the authority in conformity with its contracts with the holders of any bonds. Subject to any such contracts with the holders of bonds, the authority may enter into and perform any and all agreements with respect to property so purchased, leased, borrowed, received or accepted by it, including agreements for the assumption of principal or interest or both of indebtedness of such county, municipality, governmental unit or person or of any mortgage or lien existing with respect of such property or for the operation and maintenance of such property as part of any public facility.

P.L. 1967, c. 136, § 34, eff. June 28, 1967.

40:37B-35. Appropriation of money by counties or municipalities; loans or donations to authority

For the purpose of aiding an authority and co-operating in the planning, undertaking, acquisition, construction or operation of any public facility, the county by resolution of its governing body, or any municipality in the county by ordinance of its governing body, shall have power from time to time and for such period and upon such terms, with or without consideration, as may be provided by such resolution or ordinance and accepted by the authority (a) to appropriate moneys for the purposes of the authority, and to loan or donate such money to the authority in such installments and upon such terms as may be agreed upon with the authority, (b) to covenant and agree with the authority to pay to or on the order of the authority annually or at shorter intervals as a subsidy for the promotion of its purposes not exceeding such sums of money as may be stated in such resolution or ordinance or computed in accordance therewith, (c) upon authorization by it in accordance with law of the performance of any act or thing which it is empowered by law to authorize and perform and after appropriation of the moneys (if any) necessary for such performance, to covenant and agree with the authority to do and perform such act or thing and as to the time, manner and other details of its doing and performance, and (d) to appropriate money for all or any part of the cost of acquisition or construction of such public facility, and, in accordance with the limitations and any exceptions thereto and in the manner or mode of procedure prescribed by the Local Bond Law (40A:2-1 et seq.) of the New Jersey Statutes, to incur indebtedness, borrow money and issue, its negotiable bonds for the purpose of financing such public facility and appropriation, and to pay the proceeds of such bonds to the authority.

P.L. 1967, c. 136, § 35, eff. June 28, 1967.

FIRST CLASS COUNTY RECREATION AUTHORITY LAW

40:37B-36. Lease by county or municipality for use of public facilities

Any county, municipality, governmental unit or person is hereby empowered to enter into and perform any lease or other agreement with an authority for the lease to or use by such county, municipality, governmental unit or person of all or any part of any public facility or facilities. Any such lease or other agreement may provide for the payment to the authority by such county, municipality, governmental unit or persons annually or otherwise of such sum or sums of money, computed at fixed amounts or by any formula or in any other manner, as may be fixed in or pursuant thereto. Any such lease or other agreement may be made and entered into for a term beginning currently or at some future or contingent date and with or without consideration and for a specified or unlimited time and on any terms and conditions which may be approved by such county, municipality, governmental unit or person and which may be agreed to by the authority in conformity with its contracts with the holders of any bonds, and shall be valid and binding on such county, municipality, governmental unit or person whether or not an appropriation is made thereby prior to authorization or execution of such lease or other agreement. Every such county, municipality, governmental unit or person is hereby authorized and directed to do and perform any and all acts and things necessary, convenient or desirable to carry out and perform any such lease or other agreement entered into by it and to provide for the payment or discharge of any obligation thereunder in the same manner as other obligations of such county, municipality, governmental unit or person.

P.L. 1967, c. 136, § 36, eff. June 28, 1967.

40:37B-37. Mortgage, pledge, encumbrance or other disposal of public facilities

Except as otherwise expressly herein above provided with respect to the right of the authority to grant by franchise, lease or otherwise the use of any public facility or facilities owned or controlled by it, the authority shall not mortgage, pledge, encumber or otherwise dispose of any part of the public facilities, except that the authority may dispose of such part or parts thereof as may be no longer necessary for the purposes of the authority. The provisions of this section shall be deemed to constitute apart of the contract with the holder of any bonds.

P.L. 1967, c. 136, § 37, eff. June 28, 1967.

40:37B-38. Exemption of property of authority from levy and sale

All property of an authority shall be exempt from levy and sale by virtue of an execution, and no execution or other judicial process shall issue against the same, nor shall any judgment against an authority be a charge or lien upon its property; provided, that nothing herein contained shall apply to or limit the rights of the holder of any bonds to pursue any remedy for the enforcement of any pledge or lien given by an authority on its facility revenues or other moneys.

FIRST CLASS COUNTY RECREATION AUTHORITY LAW

P.L. 1967, c. 136, § 38, eff. June 28, 1967.

40:37B-39. Annual payments to municipalities in lieu of taxes

Every authority and every municipality in which any property of the authority is located are hereby authorized and empowered to enter into agreements with respect to the payment by the authority to such municipality of annual sums of money in lieu of taxes on such property in such amounts as may be agreed upon between the authority and the municipality, and each such authority is empowered to make such payments and each such municipality is empowered to accept such payments and to apply them in the manner in which taxes may be applied in such municipality; provided, however, that no such annual payment with respect to any parcel of such property shall exceed the amount of taxes paid thereon for the taxable year immediately prior to the time of its acquisition by the authority.

P.L. 1967, c. 136, § 39, eff. June 28, 1967.

40:37B-40. Bonds as legal investments

Notwithstanding any restriction contained in any other law, the State and all public officers, municipalities, counties, political subdivisions and public bodies, and agencies thereof, all banks, trust companies, savings banks and institutions, building and loan associations, savings and loan associations, investment companies, and other persons carrying on a banking business, all insurance companies, insurance associations and other persons carrying on an insurance business and all executors, administrators, guardians, trustees and other fiduciaries, may legally invest any sinking funds, money or other funds belonging to them or within their control in any bonds issued pursuant to this act and such bonds shall be authorized security for any and all public deposits.

P.L. 1967, c. 136, § 40, eff. June 28, 1967.

40:37B-41. Tax exemption

All public facilities and all other properties of an authority are hereby declared to be public property of a political subdivision of the State and devoted to an essential public and governmental function and purpose and shall be exempt from all taxes and special assessments of the State or any subdivision thereof. All bonds issued pursuant to this act are hereby declared to be issued by a political subdivision of this State and for an essential public and governmental purpose and to be a public instrumentality and such bonds, and the interest thereon and the income therefrom, and all facility charges, funds, revenues and other moneys pledged or available to pay or secure the payment of such bonds, or interest thereon, shall at all times be exempt from taxation except for transfer, inheritance and estate taxes and taxes on transfers by or in contemplation of death.

FIRST CLASS COUNTY RECREATION AUTHORITY LAW

P.L. 1967, c. 136, § 41, eff. June 28, 1967.

40:37B-42. Guarantee of vested rights of bondholders

The State of New Jersey does hereby pledge and covenant and agree with the holders of any bonds issued pursuant to a bond resolution of an authority adopted pursuant to this act that the State will not limit or alter the rights hereby vested in the authority to acquire, construct, maintain, reconstruct, operate, sell, lease or dispose of any public facility or to fix, establish, charge and collect its facility charges or other moneys and to fulfill the terms of any agreement made with the holders of such bonds or other obligations, so as to in any way impair the rights or remedies of such holders, and will not modify in any way the exemptions from taxation provided for in this act until the bonds, together with interest thereon, with interest on any unpaid installments of interest, and all costs and expenses in connection with any action or proceeding by or on behalf of such holders, are fully met and discharged or provided for.

P.L. 1967, c. 136, § 42, eff. June 28, 1967.

40:37B-43. Undertaking for deposits of authority

All banks, bankers, trust companies, saving banks, investment companies and other persons carrying on a banking business are hereby authorized to give to any authority a good and sufficient undertaking with such sureties as shall be approved by the authority to the effect that such bank or banking institution as herein before described shall faithfully keep and pay over to the order of or upon warrant of the authority or its authorized agent all such funds as may be deposited with it by the authority and agreed interest thereon, at such times or upon such demands as may be agreed upon with the authority or, in lieu of such sureties, deposit with the authority or its authorized agent or any trustee therefor or for the holders of any bonds as collateral, such securities as the authority may approve. The deposits of the authority may be evidenced by a depository collateral agreement in such form and upon such terms and conditions as may be agreed upon by the authority and such bank or banking institution.

P.L. 1967, c. 136, § 43, eff. June 28, 1967.

40:37B-44. Annual audit

Each authority shall cause an annual audit of its accounts to be made and for this purpose it shall employ a registered municipal accountant of New Jersey or a certified public accountant of New Jersey. The audit shall be completed and filed with the authority within 4 months after the close of the fiscal year of the authority and a certified duplicate copy thereof shall be filed in the office of the Division of Local Government in the Department of the Treasury and in the office of the treasurer of the county, within 5 days after the original report is filed with the authority.

FIRST CLASS COUNTY RECREATION AUTHORITY LAW

P.L. 1967, c. 136, § 44, eff. June 28, 1967.

40:37B-45. Filing of copy of bond resolution

Each authority shall file a certified copy of each bond resolution adopted by it in the office of the Division of Local Government in the Department of the Treasury, together with a certified summary of the dates, amounts, maturities and interest rates of all bonds to be issued pursuant thereto prior to the issuance of any such bonds. Upon the adoption of each annual budget of an authority or an amendment thereof, a certified copy thereof shall be filed forthwith in the office of said Division of Local Government.

P.L. 1967, c. 136, § 45, eff. June 28, 1967.

40:37B-46. Construction of act

This act shall be construed liberally to effectuate the legislative intent and as complete and independent authority for the performance of each and every act and thing herein authorized, and an authority shall not be subject to regulation as to its facility charges by any officer, board, agency, commission or other office of the State, or constitute or be deemed to be a county or municipality or agency or component of a municipality subject to any provisions of Title 40 of the Revised Statutes and of Title 40A of the New Jersey Statutes, except P.L.1971, c. 198 "Local Public Contracts Law "(C. 40A:11-1 et seq.); provided, however, that no authority shall exercise the powers of a common carrier, and except as herein above in this section set forth, nothing contained in this act shall in any way affect or limit the jurisdiction, rights, powers or duties of any State regulatory agencies.

P.L. 1967, c. 136, § 46, eff. June 28, 1967. Amended by L.1975, c. 96, § 8, eff. May 16, 1975.

40:37B-47. Severability

If any section, subsection, clause or provision of this act shall be adjudged unconstitutional or to be ineffective in whole or in part, to the extent that it is not adjudged unconstitutional or is not ineffective, it shall be valid and effective and no other section, subsection, clause or provision of this act shall on account thereof be deemed invalid or ineffective, and the inapplicability or invalidity of any section, subsection, clause or provision of this act in any one or more instances or under any one or more circumstances shall not be taken to affect or prejudice in any way its applicability or validity in any other instance or under any other circumstance.

P.L. 1967, c. 136, § 47, eff. June 28, 1967.